

# GENERAL PRINCIPLES OF ENVIRONMENTAL LAW

Luc Lavrysen, Ghent 5 February 2019

## A GLOBAL PACT FOR THE ENVIRONMENT ?

- 1987: ***Our Common Future***
  - Universal declaration on environmental protection and sustainable development with basic environmental law principles (1988)
  - Global Pact in second phase (1990-1993)
  - Provisional principles - 22 Articles – International Lawyers – For consideration of UNGA as starting point for negotiations (Annex 1)

## A GLOBAL PACT FOR THE ENVIRONMENT ?

- 1992: **Rio Declaration**
  - Nothing happens with Global Covenant Idea
- 1996: **IUCN World Congress Montreal**
  - Recommendation for adopting an International Covenant on the Environment and Sustainable Development
  - Draft International Covenant on Environment and Development  
by IUCN Environmental Law Commission & ICEL

## A GLOBAL PACT FOR THE ENVIRONMENT ?

- Updated on the occasion of each IUCN World Congress
  - Fifth Edition 2015



Draft  
International Covenant on  
Environment and Development  
– Implementing Sustainability –  
Fifth Edition: Updated Text

## A GLOBAL PACT FOR THE ENVIRONMENT ?

- **Club des juristes** (Paris) - 2015
  - The 2030 Agenda for Sustainable Development
  - SDGs
  - Paris Accord



ENVIRONMENT COMMITTEE - November 2015

INCREASING THE EFFECTIVENESS OF INTERNATIONAL  
ENVIRONMENTAL LAW

*Duties of States, rights of individuals*

## A GLOBAL PACT FOR THE ENVIRONMENT ?

- COP 21 December 2015
- Chair Laurent FABIUS leaves active politics
- President of the Constitutional Council of France (March 2016)
- Chair of Expert Group for a Global Environmental pact – 150 lawyers – 50 countries
- SG: Yann AGUILA

## THE PROCESS

- Spring 2017 – 5 consecutive written consultations
- Preliminary Draft discussed and finalised on 23 June 2017 Constitutional Council



## THE DRAFT GLOBAL PACT - PRESENTATION



DRAFT PROJECT

### GLOBAL PACT FOR THE ENVIRONMENT

LA SORBONNE, PARIS  
24 JUNE 2017

## THE CONTENT

- Art. 1. Right to an ecologically sound environment
- Art. 2. *Duty to take care of the environment*
- Art. 3. Integration and sustainable development
- Art. 4. Intergenerational Equity
- Art. 5. Prevention
- Art. 6. Precaution
- Art. 7. *Environmental Damages*
- Art. 8. Polluter-Pays

## THE CONTENT

- Art. 9. Access to information
- Art. 10. Public Participation
- Art. 11. Access to environmental justice
- Art. 12. *Education and training*
- Art. 13. *Research and Innovation*
- Art. 14. *Role of non-State actors and subnational entities*
- Art. 15. *Effectiveness of environmental norms*
- Art. 16. *Resilience*

## THE CONTENT

Art. 17. *Non-regression*

Art. 18. Cooperation

Art. 19. *Armed conflict*

Art. 20. Diversity of national situations

Art. 21. Monitoring of the implementation of the Pact

Art. 22-26. Final provisions

**Comprehensive – Concise – Pragmatic Ambitious**

## PUTTING IT ON THE AGENDA

- French Diplomacy
- President Macron is pushing for it
- UNGA

**Seventy-second session**  
Agenda item 14

**Resolution adopted by the General Assembly  
on 10 May 2018**

[without reference to a Main Committee ([A/72/L.51](#) and [A/72/L.51/Add.1](#))]

**72/277. Towards a Global Pact for the Environment**

## PUTTING IT ON THE AGENDA

1. *Requests* the Secretary-General to submit to the General Assembly at its seventy-third session in 2018 a technical and evidence-based report that identifies and assesses possible gaps in international environmental law and environment-related instruments with a view to strengthening their implementation;

2. *Decides* to establish an ad hoc open-ended working group, under the auspices of the General Assembly, to consider the report and discuss possible options to address possible gaps in international environmental law and environment-related instruments, as appropriate, and, if deemed necessary, the scope, parameters and feasibility of an international instrument, with a view to making recommendations, which may include the convening of an intergovernmental conference to adopt an international instrument, to the Assembly during the first half of 2019;

3. *Also decides* that the ad hoc open-ended working group shall be open to participation by all States Members of the United Nations and all members of the specialized agencies;

(b) Substantive sessions, to be held in Nairobi, the first of which at least one month after the submission of the report of the Secretary-General;

## WHAT IS HAPPENING NOW ?

United Nations

A/73/419\*



**General Assembly**

Distr.: General  
30 November 2018  
Original: English

Third session

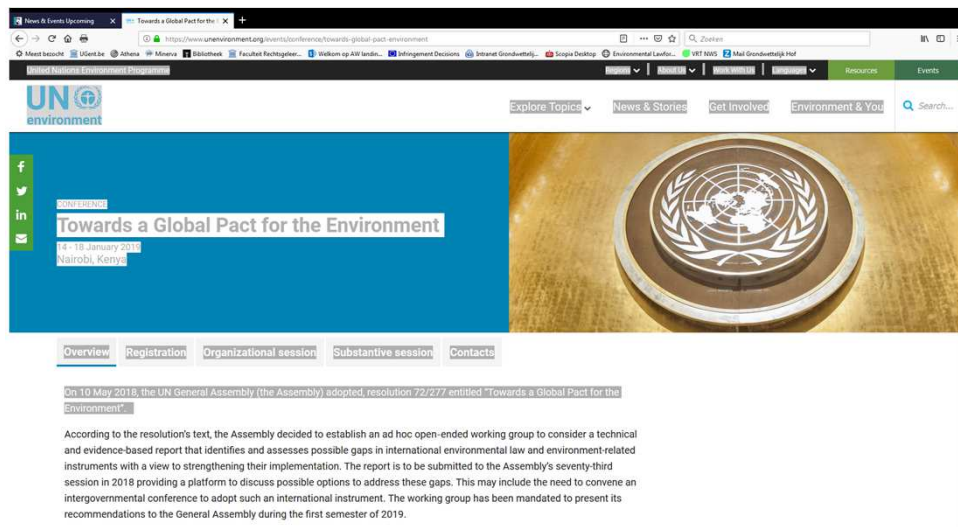
Item 14

Plan and coordinated implementation of and follow-up to the outcomes of the major  
multilateral conferences and summits in the economic, social and related fields

**Gaps in international environmental law and  
environment-related instruments: towards a global pact for  
the environment**

**Report of the Secretary-General**

## WHAT IS HAPPENING NOW ?



## WHAT IS HAPPENING NOW ?



### Global Pact 1 FINAL

## Earth Negotiations Bulletin

*A Reporting Service for Environment and Development Negotiations*

Vol. 35 No. 1

Online at: <http://enb.iisd.org/unepeglobalpact/oewg1/>

Monday, 21 January 2019

### Summary of the First Substantive Session of the *Ad Hoc* Open Ended Working Group towards a Global Pact for the Environment: 14-18 January 2019

The first substantive session of the *Ad hoc* Open-ended Working Group towards a Global Pact for the Environment convened on Monday, 14 January 2019 at the United Nations

group (OEWG) to consider a technical and evidence-based report by the United Nations Secretary-General (UNSG) (A/73/419) identifying and assessing possible gaps in IEL and environment-related instruments with a view to strengthening their implementation. The resolution also recommends, if necessary, consideration of the scope, parameters, and feasibility of an international instrument, with a view to making recommendations that may include the convening of an intergovernmental



## WHAT IS HAPPENING NOW ?



## WHAT IS HAPPENING NOW ?

- Reluctance and opposition
  - What is a Gap ? That is not a Gap !
  - There are many more Gaps.....
  - That is a justified Gap .....
- What will come out the second and third session ?
- What will happen during next UNGA ?
- Are we too optimistic if we expect a Global Pact before **2050** ?



Luc Lavrysen

Full Professor

Centre for Environmental and Energy Law

 Universiteit Gent

 @ugent

 Ghent University

E luc.lavrysen@ugent.be

[www.ugent.be](http://www.ugent.be)

